

PATENT
U.S. Patent Application No. 09/879,983
Attorney Docket No. VON96046C1

REMARKS

In the final Office Action, the Examiner requires restriction between original claims 1-6 and claims 7-11 that were added in the Amendment, filed August 15, 2005; and rejects claims 1-6 under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-5 of U.S. Patent No. 6,335,927. Applicants respectfully traverse the restriction and double-patenting rejections. Claims 1-11 remain pending.

Claims 7-11 stand withdrawn as allegedly directed to a different invention. Applicants respectfully traverse.

The Examiner alleges that claims 1-6 (Group I) are drawn to path finding or routing, classified in class 370, subclass 352, and that claims 7-11 (Group II) are drawn to channel assignment techniques, classified in class 370, subclass 401 (final Office Action, pg. 3). The Examiner alleges that Groups I and II are related as subcombinations disclosed as usable together in a single combination (final Office Action, pg. 3). To support this allegation, the Examiner alleges that group II has separate utility, such as "having details wherein allocating a communication channel to a user or subscriber for transmission of information, which does not include the particular listed of the invention I, such as method for a bridge or gateway between networks" (final Office Action, pg. 3). Applicants respectfully disagree with the Examiner's allegations.

Independent claim 7 is directed to a method for media communication over a hybrid network which includes a circuit switched network and a packet switched network. The method includes receiving a request for a media communication;

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determining an amount of resources in the hybrid network necessary to obtain a requested quality of service; and allocating necessary resources to provide the requested quality of service on the hybrid network. Independent claim 1, which is allegedly drawn to a different invention, is directed to a method for media communication over a hybrid network which includes a circuit switched network and a packet switched network. The method includes receiving a request for a media communication by a resource management processor connected to the hybrid network; determining an amount of resources in the hybrid network necessary to obtain a requested quality of service; allocating necessary resources to provide the requested quality of service on the hybrid network; and releasing the necessary resources upon termination of the media communication. For ease of comparison, the following table depicts the features recited in Applicants' claims 1 and 7, which the Examiner alleges are drawn to different inventions.

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| Claim 1 | Claim 7 |
|---|---|
| A method for media communication over a hybrid network which includes a circuit switched network and a packet switched network, comprising: | A method for media communication over a hybrid network which includes a circuit switched network and a packet switched network, comprising: |
| receiving a request for a media communication by a resource management processor connected to the hybrid network; | receiving a request for a media communication; |
| determining an amount of resources in the hybrid network necessary to obtain a requested quality of service; | determining an amount of resources in the hybrid network necessary to obtain a requested quality of service; and |
| allocating necessary resources to provide the requested quality of service on the hybrid network; and | allocating necessary resources to provide the requested quality of service on the hybrid network. |
| releasing the necessary resources upon termination of the media communication. | |

Clearly, this comparison of claims 1 and 7, which the Examiner alleges are directed to different inventions, shows that claims 1 and 7 are not directed to different inventions.

The mere fact that claim 1 recites a feature that is not included in claim 7 would in no way lead one skilled in the art to conclude that these claims are directed to different inventions.

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Moreover, the Examiner's allegation that Group II has separate utility, such as having details wherein allocating a communication channel to a user or subscriber for transmission of information, is without merit. None of the claims in Group II (or Group I) recites allocating a communication channel, as the Examiner alleges. If the Examiner is referring to the feature "allocating necessary resources to provide the requested quality of service on the hybrid network," that is recited in claim 7, Applicants note that this identical feature is recited in Applicants' claim 1.

In further support of the restriction requirement, the Examiner alleges that "the search required for Group I is not required for Group II" (final Office Action, pg. 4). Applicants respectfully disagree. As clearly shown in the table above, any search of claim 7 would necessarily involve the same patents, publications, etc. that would be searched during examination of claim 1, and vice versa.

Applicants respectfully submit that the Examiner's restriction requirement is unreasonable. Moreover, Applicants strenuously object to the Examiner's attempt to unfairly limit Applicants' application to one set of claims. Clearly, this is not the intention of the restriction practice that is set forth in the MPEP and the statutes.

Similar comments can be made for Applicants' independent claim 10, which recites features similar to, yet possibly of different scope than, the features described above with respect to claim 7.

For at least the foregoing reasons, Applicants request that the Examiner reconsider and withdraw the restriction requirement regarding claims 7-11 and provide a proper examination of these claims.

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Claims 1-6 stand rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-5 of U.S. Patent No. 6,335,927. Applicants respectfully traverse this rejection.

Applicants filed a Terminal Disclaimer on August 15, 2005, in response to this same rejection in the Office Action, dated May 16, 2005. The final Office Action indicates that the Terminal Disclaimer has been accepted by the Patent Office (final Office Action, pg. 2). The Terminal Disclaimer acts to overcome the double patenting rejection. Yet, the Examiner appears to maintain the double patenting rejection of claims 1-6 in the final Office Action with no explanation as to why the rejection has been maintained. Applicants assume that this is an oversight by the Examiner. Withdrawal of the rejection of claims 1-6 based on obviousness-type double patenting is respectfully requested.

In view of the foregoing remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

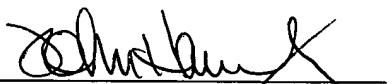
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To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 13-2491 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: January 6, 2006

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